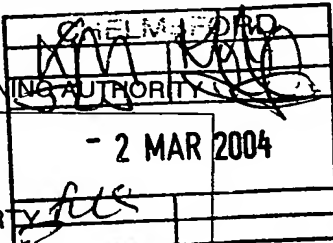


PATENT COOPERATION TREATY

W003/105384

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY



PCT

WRITTEN OPINION
(PCT Rule 66)

To:

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Date of mailing
(day/month/year) 26.02.2004

Applicant's or agent's file reference
P/62322/GPTU18

REPLY DUE within 3 month(s)
from the above date of mailing

International application No.
PCT/GB 03/02508

International filing date (day/month/year)
11.06.2003

Priority date (day/month/year)
11.06.2002

International Patent Classification (IPC) or both national classification and IPC
H04J14/02

Applicant
MARCONI UK INTELLECTUAL PROPERTY LTD. et al

1. This written opinion is the **first** drawn up by this International Preliminary Examining Authority.
2. This opinion contains indications relating to the following items:
 - I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application
3. The applicant is hereby **invited to reply** to this opinion.

When? See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(d).

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also: For an additional opportunity to submit amendments, see Rule 66.4.
For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis.
For an informal communication with the examiner, see Rule 66.6.

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.
4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 11.10.2004

Name and mailing address of the international preliminary examining authority:



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I. Basis of the opinion

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed"*):

Description, Pages

1-8 as originally filed

Claims, Numbers

1-21 as originally filed

Drawings, Sheets

1/3-3/3 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the **sequence listing**:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

5. ☐ This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

6. Additional observations, if necessary:

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V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. Statement**

Novelty (N)	Claims	1, 11
Inventive step (IS)	Claims	2-10, 12-21
Industrial applicability (IA)	Claims	

2. Citations and explanations**see separate sheet****BEST AVAILABLE COPY**

Re Item V

Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Reference is made to the following documents:

- D1: EP-A-0 924 888 (NORTHERN TELECOM LTD) 23 June 1999 (1999-06-23) cited in the application
- D2: WO 02 09299 A (SYCAMORE NETWORKS INC) 31 January 2002 (2002-01-31) cited in the application
- D3: EP-A-0 543 570 (AMERICAN TELEPHONE & TELEGRAPH) 26 May 1993 (1993-05-26)
- D4: DE 198 48 989 A (SIEMENS AG) 11 May 2000 (2000-05-11)

2. The present application does not meet the requirements of Art. 33(2) PCT, because the subject-matter of **claims 1 and 11** is not new.

2.1 Document D1 discloses following features (applying the terminology of independent **claim 1**):

A method of controlling signal launch power in an optical communications network (Fig. 1), comprising pre-distorting the launch power (page 4, paragraph 17, lines 36-46) in accordance with known values of at least one of bandwidth and expected noise power on the signal path (page 4, paragraph 17, lines 19-35).

This is the complete wording of claim 1 the subject-matter of which consequently cannot be acknowledged as being novel.

It is noted that the features of claim 1 are also disclosed by documents D2 (abstract, page 4, line 19 - page 7, line 2), D3 (abstract; page 3, line 45 - page 5, line 41; Fig. 2, 7) and D4 (page 2, line 56 - page 4, line 25; Fig. 1).

2.2 Independent **claim 11** represents the apparatus claim corresponding to the features of the method claim 1. Consequently, the above reasoning applies to

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claim 11, too, yielding a lack of novelty.

3. The features of dependent **claims 2-10 and 12-21** are either disclosed or rendered obvious by documents D1-D4. Therefore, the subject-matter of these claims is not regarded as being novel or inventive.
4. The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).
5. In order to facilitate the examination of the conformity of the amended application with the requirements of Article 34(2)(b) PCT, the applicant is requested **to clearly identify the amendments carried out, no matter whether they concern amendments by addition, replacement or deletion, and to indicate the passages of the application as filed on which these amendments are based** (see also Rule 66.8(a) PCT).